

### **REMARKS**

Claims 1 to 36 have been withdrawn without prejudice to pursue in a divisional application. Independent claims 37 and 43, and dependent claims 38, 40-42, 44, 46-47 are pending. Claims 39 and 45 have been canceled. All claims have been amended to more accurately define the Applicants' invention. Support for these amendments is found on pages 43 and 44 of the present application.

The examiner has rejected claims 37 and 43 under 35 USC section 101, stating that the claimed invention is directed to non-statutory subject matter. The committee examiner specifically cites *In re Bilski*, 545 F. 3d. 943 (Fed. Cir.). The examiner has recommended that quote preamble of the claim should be amended to include the language of "a computer readable storage medium." The applicant has amended the preambles and other parts of the independent claims to fall within the statutory subject matter, and respectfully requests that this rejection be withdrawn.

The applicant is uncertain as to how to comply with the Examiner's recommendation that the specification be amended such that storage media be separated into a different category from signal bearing media. The difference between such media is inherently obvious.

The examiner has rejected claims 46 and 47 under 35 USC section 112, first paragraph as failing to comply with written description requirement. The applicant respectfully traverses this rejection. All of the devices listed in claim 46 and 47 are discussed within the current specification, at least at pages 31 and 32 of the present application. Further, all of these devices are well known to one ordinarily skilled in the art. The applicant respectfully requests that the rejection be withdrawn.

The examiner has rejected claims 37 and 43 under Thorton'666, Thorton'983 and Ahern. The applicant has amended claims 37 and 43 to address the Examiner's concerns. Specifically,

the applicant has amended the independent claims to clarify the formation of a data packet including the audio signal. Further, the Applicant has amended the claims to require that the data packet being transmitted within a time limit. As is clearly discussed in the application, high-quality audio for transmission is one objective of the present invention. "It is yet another object of the present invention to allow audio generated at a user workstation to be played at near CD quality at a remote computer." See page 21, line 21-23 of the present application. Such high-quality audio requires a certain bit depth.. The 34 bits allow sufficient bit depth of CD quality audio. Thus, the claims now include a functional limitation,. Therefore this additional element of the independent claims addressed the concerns for claim 37 and 43, and further addresses the concerns expressed in claims 39 and 45. Claims 39 and 47 have been canceled as their elements have been integrated and expanded upon in the independent claims.

Claims 38, 40-42, 44, 46-47 have all been also been amended to include in the preamble "the computer-readable medium" in order to accurately depend off their respective independent claims. The remaining claims all depend from claims 37 and 43 or from one or another of the independent or dependent claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration, as the case maybe, of the patentability of each on its own merits is respectfully requested.

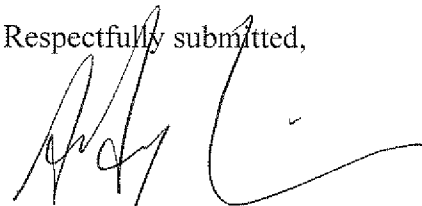
In view of the foregoing amendments and remarks, Applicants respectfully requests favorable reconsideration and allowance of the present application. If, however, there are any unresolved issues, it is requested that the Examiner contact Applicants' representative via telephone so that such issues can be quickly resolved.

*Correspondence and Fees*

Concurrently herewith, Applicants have filed a petition for a three month extension and paid the applicable \$1110.00 fee. No additional fees are believed to be necessitated by the instant response. However, should a fee be required, authorization is hereby given to charge Deposit Account no. 03-3839 for any underpayment, or to credit any overpayments.

Please address all correspondence to the correspondent address for **Customer No. 26345 of Intellectual Docket Administrator, Gibbons P.C.**, One Gateway Center, Newark, NJ 07102-5310. Telephone calls should be made to Andrew M. Grodin at (973) 596-4553 and fax communications should be sent directly to him at (973) 639-8355.

Respectfully submitted,



Andrew M. Grodin  
Registration No. 50,728  
Attorney for Applicants

Gibbons P.C.  
One Gateway Center  
Newark, New Jersey 07102-5310